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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,946	03/16/2006	Ramon Cortes	1429-163	6765

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HOUSTON, TX 77002

EXAMINER

ZEWARI, SAYED T

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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10/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/541,946

Applicant(s)

CORTES ET AL.

Examiner

Sayed T. Zewari

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1/21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Objections

Specification

2. The specification is objected to because it is almost incomprehensible. For proper examination of the application, the examiner needs to read and understand the application thoroughly. As it is written now, it fails to communicate as to what exactly the invention is and it puts enormous burden on the examiner. It needs to be rewritten in simple, clear and understandable language. For future examination it needs to be rewritten completely. Correction is required. See MPEP § 608.01(b).
3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

4. As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:
 - (a) TITLE OF THE INVENTION.
 - (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
 - (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
 - (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
 - (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
 - (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:

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- (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
- (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR

1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

Drawings

5. The drawing is objected to because there are no detail drawings to help understand the invention. The one page drawing submitted has only few block diagrams having no proper label but just a number. It requires repeated referral back to the specification to figure out what a particular block is. The drawing does not sufficiently explain the invention. Please submit sufficient drawings and flow charts to explain the invention.

6. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in

the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

7. The drawings are objected to under 37 CFR 1.83(a) because they fail to show details as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

DETAILED ACTION

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The recitations of the phrases "likely ", "such as" renders the claims vague and indefinite. The applicant is referred to MPEP chapter 600 to correct and avoid these defects.

10. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-9, 12-14, 17-18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takae et al. (US 2002/0,034,940) in view of Frey et al. (US 6,369,908).

With respect to claim 1, Takae discloses a method for transferring data, such as alphanumeric data and/or programs (**See Takae's abstract, section [0002], [0009] where upgrading inherently implies transfer of data**), between at least one electronic terminal and at least one terminal (**See Takae's abstract, section [0002], [0009], [0026]-[0028]**), characterized in that it consists in:

a) inputting at the level of the electronic terminal used, which is of the type interactive public terminal, the references, namely the telephone address, and, in addition, the brand name and the model, of the terminal to be personalized, which is of the type electronic device for personal use, namely a mobile telephone (**See Takae's abstract, section [0002], [0009], figure 1, [0032]-[0038], figure 3, [0047]-[0048]**);

c) settling the amount for the selected service, using a payment peripheral installed on said terminal (**See Takae's abstract, section [0002], [0009], figure 1, [0032]-[0038], figure 3, [0047]-[0048]**);

d) transmitting to said terminal, via a communication network, the selected data with a view to personalize said terminal (**See Takae's abstract, section [0002], [0009], figure 1, [0032]-[0038], figure 3, [0047]-[0048]**). However Takae does not specifically disclose transferring data such as sound or images. But Frey discloses a system capable of transmitting sound or image data (**See Frey's abstract, figure 1(21)**),

col.2 lines 49-51 col.3 lines 30-42, col.4 lines 1-32, 33-67, col.5 lines 1-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Takae and combine with Frey, thereby providing a system with capability of transferring different kind of data, as disclosed by Frey **(See Frey's col.1 lines 50-67, col.2 lines 5-7).**

With respect to claim 7, Takae discloses a system for transferring data, such as alphanumeric data and/or programs **(See Takae's abstract, section [0002], [0009] where upgrading inherently implies transfer of data)**, between at least one interactive public terminal and at least one personal terminal to be personalized **(See Takae's abstract, section [0002], [0009], figure 1, [0032]-[0038], figure 3, [0047]-[0048])**, said system comprising:

- at least one terminal **(See Takae's abstract, section [0002], [0009], [0026]-[0028])**, each terminal being comprised of:

- a central unit comprising an inherent storage means aimed at containing, when the terminal is operating, an operating software as well as data regarding the services offered **(See Takae's , figure 3, section [0047], and [0048] where storage means are inherent part of a wireless terminal);**

- means for interaction with a user, such as selection and reproduction peripherals for the data **(See Takae's , figure 3, section [0047], and [0048] where selection (keypad) and reproduction peripheral means (speaker) are inherent part of a wireless terminal);**

- means for interaction with an operator, such as a interface for communicating with an operating center via a communication network (**See Takae's , figure 1 and 2, section [0025]-[0030],[0043]-[0046]);**

- a mass storage peripheral, containing the operating software and the data which are transferred, at each activation and/or at each switching on of the terminal, to the storage means of the central unit (**See Takae's , figure 3, section [0047], and [0048] where storage means are inherent part of a wireless terminal);**

-means for transmitting said selected data to at least one selected personal terminal, this via a telecommunication network (**See Takae's abstract, section [0002], [0009] where upgrading inherently implies transfer of data); and**

-at least one terminal, each terminal being comprised of means for reproducing the data received (**See Takae's , figure 3, section [0047], and [0048] where selection (keypad) and reproduction peripheral means (speaker) are inherent part of a wireless terminal).**

With respect to claim 2, Takae discloses a method characterized in that, before inputting the references of a terminal, one proceeds to loading, at the level of a volatile memory and from a mass storage peripheral said electronic terminal includes, a software for operating the method as well as data related to the services offered which can be selected, namely a visual and/or sound representation of specific data likely to be selected (**See Takae's abstract, section [0002], [0009], figure 1, [0032]-[0038], figure 3, [0047]-[0048]).**

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With respect to claim 3, Takae discloses a method for transferring data according to any of the preceding claims **(See Takae's abstract, section [0002], [0009] where upgrading inherently implies transfer of data)**, characterized in that, after inputting the references of a terminal and before selecting the specific data, one proceeds to an analysis of the possibilities of the terminal, depending on the references input, in order to provide specific data compatible with the possibilities of the terminal and likely to be selected **(See Takae's abstract, section [0002], [0009], figure 1, [0032]-[0038], figure 3, [0047]-[0048])**.

With respect to claim 4, Frey discloses a method further comprising, before selecting the specific data reproducing a visual and/or sound of the specific data likely to be selected, this at the level of means for visual and/or sound reproduction of said electronic terminal **(See Frey's abstract, figure 1, col.2 lines 29-55)**.

With respect to claim 5, Frey discloses a method further comprising, transmitting the selected data directly from the terminal to said terminal, or transmitting a designation of the selected data is first from said terminal to an operating center, this operating center then transmitting the selected data to said terminal based on the designation of the selected data received **(See Frey's abstract, figure 1(21), col.2 lines 49-51 col.3 lines 30-42, col.4 lines 1-32, 33-67, col.5 lines 1-30, col.2 lines 29-55)**.

With respect to claim 6, Takae discloses a computer program for carrying out the steps of the method for transferring data (**See Takae's figure 5, section [0053]-[0056]**).

With respect to claim 8, Takae discloses a system wherein said storage means of each terminal are defined, at least partly, by a volatile memory, on the one hand and when the terminal is operating, which is aimed at containing the operating software as well as the data related to the services offered and, on the other hand, to which this operating software and these data are transferred, this at each activation and/or at each switching on of the terminal (**See Takae's, figure 3, section [0047], and [0048] where storage means are inherent part of a wireless terminal**).

With respect to claim 9, Takae discloses a system wherein the data related to services offered contained, as the case may be, at the level of the mass storage peripheral or at the level of the volatile memory are formed by visual and/or sound representations of the specific data likely to be selected (**See Takae's, figure 3, section [0047]**).

With respect to claim 12, Frey discloses a system wherein the peripherals for selecting and reproducing the data of each terminal are formed by touch screen (**See Frey's col.2 lines 29-36, col.3 lines 19-30**).

With respect to claim 13, Takae discloses a system wherein the peripherals for selecting and reproducing the data is a keyboard and the peripheral for reproducing same is a display (**See Takae's figure 3, section [0047], and [0048] where selection**

(keypad) and reproduction peripheral means (speaker) are inherent part of a system).

With respect to claim 14, Frey discloses a system wherein each terminal comprises a peripheral for payment, namely with coins, card, prepaid voucher or by any other payment means **(See Frey's col.2 lines 29-67, col.3 lines 1-19).**

With respect to claim 17, Takae discloses a system wherein the terminal comprises means arranged so as to directly ensure a transmission of the selected data from the terminal to the personal terminal, via a telecommunication network **(See Takae's abstract, section [0002], [0009], figure 1, [0032]-[0038], figure 3, [0047]-[0048]).**

With respect to claim 18, Takae discloses a system wherein the terminal comprises means for transmitting to the operating center, via a communication network, wherein a designation of the selected data and in that the operating center comprises means for transmitting, via a communication network, the selected data to said terminal based on the designation of the selected data received **(See Takae's abstract, section [0002], [0009], figure 1, [0032]-[0038], figure 3, [0047]-[0048]).**

With respect to claim 21, the above combinations disclose all the limitations of claim 21.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 10-11, 15-16, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takae et al. (US 2002/0,034,940) in view of well-known prior art (MPEP 2144.03).

With respect to claim 10, Takae discloses a system wherein the storage means of each terminal are defined. Takae does not specifically disclose a non-volatile memory comprised of an encrypting key for the identifiers of the subunits of the terminal and means for loading the operating software and the data, or for downloading said information from the operating center which is re-calculated, at each loading or downloading, and compared with the stored key in order to authorize, or not, its operation. However, an official notice is taken that the concept and use of a key in encryption process, loading and comparing the key are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to provide a non-volatile memory for encrypting key.

With respect to claim 11, Takae discloses a system wherein each terminal comprises means adapted to send. Takae does not specifically disclose sending, at regular time intervals, an operating report to the operating center as well as a statement on its operation and/or an event log. However, an official notice is taken that the concept and use of sending an event's log are well known and expected in the art.

Therefore, it would be obvious to one of ordinary skill in the art to regularly send a report on its operation and event log.

With respect to claim 15, Takae discloses a system wherein each terminal comprises means adapted to input. Takae does not specifically disclose sending telemessages. However, an official notice is taken that the concept and use of sending telemessages are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to adapt the input/output for sending telemessages.

With respect to claim 16, Takae discloses a wireless terminal. Takae does not disclose each terminal comprises means adapted to input and send photographs. However, an official notice is taken that the concept and use of sending photographs using wireless terminals are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to adapt the input/output for sending/receiving photographs.

With respect to claim 19 and 20, Takae discloses a system and communication network. Takae does not specifically disclose the communication network is comprised of the hertzian type, namely GSM, GPRS, UMTS, or of a switched type. However, an official notice is taken that the concept and use of GSM, GPRS, or UMTS are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to use one of the above networks as the communication network for their system.

Conclusion


15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sayed T. Zewari whose telephone number is 571-272-6851. The examiner can normally be reached on 8:30-4:30.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sayed T. Zewari

September 21, 2007


LESTER G. KINCAID
SUPERVISORY PRIMARY EXAMINER